

No. 136

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Democratic Republic of Sao Tome and Principe, and refers to recent discussions between representatives of the Government of the United States of America and the Government of the Democratic Republic of Sao Tome and Principe regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Considering that the Government of the United States of America and the Government of the Democratic Republic of Sao Tome and Principe have each expressed their intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

The Embassy proposes the following agreement:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.
2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,
 - (a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

- (b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.
- 3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of Sao Tome and Principe to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Democratic Republic of Sao Tome and Principe.
- 4. When the Government of the Democratic Republic of Sao Tome and Principe extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Democratic Republic of Sao Tome and Principe will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.
- 5. This Agreement shall remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the Democratic Republic of Sao Tome and Principe, this note and the Ministry's affirmative note in reply shall constitute an agreement between the two Governments which shall enter into force on the date of the Ministry's note.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs and Cooperation of the Democratic Republic of Sao Tome and Principe the assurances of its highest consideration.

Embassy of the United States of America,
Libreville, November 6, 2003.

**U.S. Department of State
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**Democratic Republic of São Tomé e Príncipe
Ministry of Foreign Affairs and Cooperation
Office of the Minister**

São Tomé, November 12, 2003

Mr. Ambassador:

I have the honor to acknowledge receipt of Your Excellency's note of November 10
[sic—November 6], which reads as follows:

[FOR TEXT SEE U.S. NOTE]

The Government of São Tomé e Príncipe concurs in the contents of the note transcribed
above, and considers that said note and this reply shall constitute an agreement between our two
governments.

Mr. Kenneth P. Morefield,
Ambassador of the United States of America,
Libreville.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

[Signature]

Mateus Meira Rita
Minister of Foreign Affairs and Cooperation

CERTIFICATION OF TRANSLATION

I hereby certify that the above
translation bearing LS No. 11-20044319 was
prepared by the Office of Language
Services of the Department of State
and that it is a correct translation
to the best of my knowledge and belief.

Dated: 23 November 2003

(S) Chief, Translating Division

